

AMENDED IN SENATE MARCH 27, 2006

SENATE BILL

No. 1735

Introduced by Senator Cox

February 24, 2006

An act to ~~amend Section 23109 of~~ *add Section 2800.4 to the Vehicle Code, relating to vehicles.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1735, as amended, Cox. Vehicles: ~~speed-contest~~ *police pursuits.*

(1) Existing law makes it a misdemeanor for a person operating a motor vehicle to willfully flee or otherwise attempt to elude a pursuing peace officer's motor vehicle under certain conditions. If the pursued vehicle is driven in a willful or wanton disregard for the safety of persons or property, or where that unlawful act proximately causes death or serious bodily injury, the offense is punishable as a misdemeanor or a felony, as specified.

This bill would make it a felony if a person willfully flees or attempts to elude a pursuing peace officer and the person operating the pursued vehicle willfully drives that vehicle on a highway in a direction opposite to that in which the traffic lawfully moves upon that highway. By creating a new crime this bill would impose a state-mandated land program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law prohibits a person from engaging in a motor vehicle speed contest, aiding or abetting in that contest, engaging in a motor vehicle exhibition of speed on a highway or aiding or abetting in that conduct, and obstructing or placing a barricade or obstruction or assisting in the same, upon a highway, incident to a motor vehicle speed contest or speed exhibition upon a highway.~~

~~Existing law imposes various sanctions on persons convicted of the above.~~

~~This bill would make technical, nonsubstantive changes to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 2800.4 is added to the Vehicle Code, to*
2 *read:*

3 *2800.4. Whenever a person willfully flees or attempts to elude*
4 *a pursuing peace officer in violation of Section 2800.1, and the*
5 *person operating the pursued vehicle willfully drives that vehicle*
6 *on a highway in a direction opposite to that in which the traffic*
7 *lawfully moves upon that highway, the person upon conviction is*
8 *punishable by imprisoned in the state prison for a term of 4, 6, or*
9 *10 years, or by a fine of not less than two thousand dollars*
10 *(\$2,000) nor more than ten thousand dollars (\$10,000), or by*
11 *both that fine and imprisonment.*

12 *SEC. 2. No reimbursement is required by this act pursuant to*
13 *Section 6 of Article XIII B of the California Constitution because*
14 *the only costs that may be incurred by a local agency or school*
15 *district will be incurred because this act creates a new crime or*
16 *infraction, eliminates a crime or infraction, or changes the*
17 *penalty for a crime or infraction, within the meaning of Section*
18 *17556 of the Government Code, or changes the definition of a*
19 *crime within the meaning of Section 6 of Article XIII B of the*
20 *California Constitution.*

21 ~~SECTION 1. Section 23109 of the Vehicle Code is amended~~
22 ~~to read:~~

23 ~~23109. (a) A person shall not engage in a motor vehicle~~
24 ~~speed contest on a highway. As used in this section, a motor~~
25 ~~vehicle speed contest includes a motor vehicle race against~~

1 another vehicle, a clock, or other timing device. For purposes of
2 this section, an event in which the time to cover a prescribed
3 route of more than 20 miles is measured, but where the vehicle
4 does not exceed the speed limits, is not a speed contest.

5 (b) A person shall not aid or abet in a motor vehicle speed
6 contest on a highway.

7 (c) A person shall not engage in a motor vehicle exhibition of
8 speed on a highway, and no person shall aid or abet in a motor
9 vehicle exhibition of speed on a highway.

10 (d) A person shall not for the purpose of facilitating or aiding
11 or as an incident to a motor vehicle speed contest or exhibition
12 upon a highway in any manner obstruct or place a barricade or
13 obstruction or assist or participate in placing a barricade or
14 obstruction upon a highway.

15 (e) (1) A person convicted of a violation of subdivision (a)
16 shall be punished by imprisonment in a county jail for not less
17 than 24 hours nor for more than 90 days or by a fine of not less
18 than three hundred fifty-five dollars (\$355) nor more than one
19 thousand dollars (\$1,000), or by both that fine and imprisonment.
20 That person shall also be required to perform 40 hours of
21 community service. The court may order the privilege to operate
22 a motor vehicle suspended for 90 days to six months, as provided
23 in paragraph (8) of subdivision (a) of Section 13352. The
24 person's privilege to operate a motor vehicle may be restricted
25 for 90 days to six months to necessary travel to and from that
26 person's place of employment and, if driving a motor vehicle is
27 necessary to perform the duties of the person's employment,
28 restricted to driving in that person's scope of employment. This
29 subdivision does not interfere with the court's power to grant
30 probation in a suitable case.

31 (2) If a person is convicted of a violation of subdivision (a)
32 and that violation proximately causes bodily injury to a person
33 other than the driver, the person convicted is punishable by
34 imprisonment in a county jail for not less than 30 days nor more
35 than six months or by a fine of not less than five hundred dollars
36 (\$500) nor more than one thousand dollars (\$1,000), or by both
37 the fine and imprisonment.

38 (f) (1) If a person is convicted of a violation of subdivision (a)
39 for an offense that occurred within five years of the date of a
40 prior offense that resulted in a conviction of a violation of

subdivision (a), that person shall be punished by imprisonment in a county jail for not less than four days nor more than six months, and by a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000).

(2) If the perpetration of the most recent offense within the five-year period described in paragraph (1) proximately causes bodily injury to a person other than the driver, a person convicted of that second violation shall be imprisoned in a county jail for not less than 30 days nor more than six months and by a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000).

(3) If the perpetration of the most recent offense within the five-year period described in paragraph (1) proximately causes serious bodily injury, as defined in paragraph (4) of subdivision (f) of Section 243 of the Penal Code, to a person other than the driver, a person convicted of that second violation shall be imprisoned in the state prison, or in a county jail for not less than 30 days nor more than one year, and by a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000).

(4) The court shall order the privilege of a person convicted under paragraph (1), (2), or (3), to operate a motor vehicle suspended for a period of six months, as provided in paragraph (9) of subdivision (a) of Section 13352. In lieu of the suspension, the person's privilege to operate a motor vehicle may be restricted for six months to necessary travel to and from that person's place of employment and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment. This subdivision does not interfere with the court's power to grant probation in a suitable case.

(g) If the court grants probation to a person punishable under subdivision (f), in addition to the provisions of subdivision (f) and any other terms and conditions imposed by the court, which may include a fine, the court shall impose as a condition of probation that the person be confined in a county jail for not less than 48 hours nor more than six months. The court shall order the person's privilege to operate a motor vehicle to be suspended for a period of six months, as provided in paragraph (9) of

1 ~~subdivision (a) of Section 13352 or restricted pursuant to~~
2 ~~subdivision (f).~~

3 ~~(h) If a person is convicted of a violation of subdivision (a)~~
4 ~~and the vehicle used in the violation is registered to that person,~~
5 ~~the vehicle may be impounded at the registered owner's expense~~
6 ~~for not less than one day nor more than 30 days.~~

7 ~~(i) A person who violates subdivision (b), (c), or (d) of this~~
8 ~~section shall upon conviction thereof be punished by~~
9 ~~imprisonment in a county jail for not more than 90 days or by a~~
10 ~~fine of not more than five hundred dollars (\$500) or by both that~~
11 ~~fine and imprisonment.~~

12 ~~(j) If a person's privilege to operate a motor vehicle is~~
13 ~~restricted by a court pursuant to this section, the court shall~~
14 ~~clearly mark the restriction and the dates of the restriction on that~~
15 ~~person's driver's license and promptly notify the Department of~~
16 ~~Motor Vehicles of the terms of the restriction in a manner~~
17 ~~prescribed by the department. The Department of Motor Vehicles~~
18 ~~shall place that restriction in the person's records in the~~
19 ~~Department of Motor Vehicles and enter the restriction on a~~
20 ~~license subsequently issued by the Department of Motor Vehicles~~
21 ~~to that person during the period of the restriction.~~

22 ~~(k) The court may order that a person convicted under this~~
23 ~~section, who is to be punished by imprisonment in a county jail,~~
24 ~~be imprisoned on days other than days of regular employment of~~
25 ~~the person, as determined by the court.~~

26 ~~(l) This section shall be known and may be cited as the Louis~~
27 ~~Friend Memorial Act.~~